IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 4TH JANUARY 2007 / 14TH PAUSHA 1928

WP(C).No. 515 of 2007(J)

PETITIONER:

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1. PURUSHOTHAMAN.C. S/O.KUMARAN, NEAR MADAIKKAVU, P.O.PAZHAYANGADI, KANNUR DIST.

2. B.RAFEEQUE, BILAVINAKATH, KULANGARA PALLI, P.O.PAYANGADI, KANNUR DIST.

3. THOMAS FERNANDEZ, IRENE VILLAGE4, MARAKKARKANDY, P.O THAYYIL, KANNUR DIST.

4. WILSON FERNANDEZ, S/O.JUTUS FERNANDEZ, JAPAMALA HOUSE, HOUSE NO. 268, P.O. THAYYIL, KANNUR DISTRICT.

5. MUHAMMED FIROZ.K. ZAHIDAS, NEAR OLD N.C.C. OFFICE, PAYYANNUR, KANNUR DISTRICT.

6. CHANDRAN.K. ETTAMMAL HOUSE, P.O.MADAI, KANNUR DISTRICT.

7. SURENDRAN PAITHELAN, VELLACHAL, P.O.VENGARA, VIA PAYANGADI, KANNUR DISTRICT.

8. GANESHAN.M. MANHAKKADATHIL HOUSE, P.O.KOOVERY, VIA CHAPPARAPPADAVU, KANNUR DISTRICT.

9. P.P.BALAKRISHNAN, PUTHIYAPURAYIL HOUSE, KALLIASSERY KANNAPPURAM, P.O. CHERUKUNNU, KANNUR DISTRICT.

10. SUMERSHMON.T. ANNUR P.O. PAYYANNUR VIA, KANNUR DISTRICT.

11. JAYAKUMAR.A. BAITAL SALAM,
H.NO. HO.C. BURMASSERY P.O. KANNUR DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY TO GOVERNMENT, DEPARTMENT OF HIGHER EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM.

3. THE SECRETARY TO GOVERNMENT, DEPARTMENT OF PRISONS, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO. 515 of 2007

Dated this the 4th day of January, 2007

JUDGMENT

The petitioners, 11 in numbers, were appointed provisionally in various posts in the Government Department. Based on the Government orders then in existence, they were paid only basic pay attached to the respective posts. But for those Government orders, they were eligible to get dearness allowance and other allowances also. As per Ext.P16 G.O. dated 16.1.2002, it was ordered among other, that new recruits in government service/public sector undertakings and autonomous institutions/statutory undertakings will be given only basic pay for the first two years of their service. Since the petitioners happened to be appointed during the above period, the remuneration paid to them was confined to basic pay only. Learned counsel for the petitioners contends that Ext.P16 is applicable only to regular employees, and therefore,the petitioners ought to have been paid full emoluments, namely, basic pay and allowances. It is further pointed out that even assuming that Ext.P16 will apply in the case of temporary employees as well, Government reviewed Ext.P16 order and passed another order on 31.5.2003 and directed that those who got only basic pay will be entitled for emoluments including

allowances and that the arrears of dearness allowance and other allowances shall be paid to them subject to the condition that 50% of the arrear amount will be released in cash along with the salary for February 2006 and the balance along with the salary for April 2006. The petitioners have filed Exts.P18 to P28 representations before the Secretary to Government in the concerned department requesting to sanction and disburse the arrears of dearness allowance and other allowances, as ordered in Ext.P17. Of course, they have taken up the contention that Ext.P16 ought not to have been applied in their case and they are entitled for full emoluments.

2. Respondents 1 to 3 shall consider the request of the petitioners, in the light of Exts.P16 and P17, take appropriate decision and if it is found that the petitioners are entitled for arrears of emoluments, namely, dearness allowance and other allowances, the same shall be paid to them, as expeditiously as possible, in any event, within two months on the petitioners producing a copy of the judgment along with a copy of the writ petition.

K.K.DENESAN, JUDGE

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